

REMARKS

Claims 2 and 5-12 are pending in the present application.

At the outset, Applicants wish to thank Examiners Teller, Tate, and Brumback for the helpful and courteous discussion with their undersigned Representative on April 14, 2004. Applicants would also like to thank the Examiners for the indication that the rejection under 35 U.S.C. § 112, first paragraph, would be withdrawn (Interview Summary dated April 14, 2004). Reconsideration and allowance is respectfully requested.

The rejections of Claim 2 under 35 U.S.C. § 112, first paragraph (written description), is traversed.

Applicants again thank the Examiners for recognizing that the full scope of Claim 2 is adequately described in the present specification and in view of the same this ground of rejection will be withdrawn (Interview Summary dated April 14, 2004). Specifically, Applicants thank the Examiners for recognizing that when the artisan is placed in possession of the polypeptide sequence (e.g., SEQ ID NO:4), they would immediately envision every permissible polynucleotide sequence (i.e., a species) that would encode the same. As such, the specification taken with the knowledge generally available in the art provides an adequate description to allow the skilled artisan to recognize what has been invented and what is claimed is adequately described within the meaning of 35 U.S.C. § 112, first paragraph.

In the Advisory Action, the Examiner states that this rejection has been maintained since Claim 2 reads on non-elected sequences (SEQ ID NOs: 1-3 and 4-7). Applicants have removed these sequences from the claims. Therefore, this criticism by the Examiner is not longer relevant.

Applicants request that the Office provide official acknowledgment that this ground of rejection has been withdrawn.

During the discussion the Examiner indicated that the claims need to be amended to distinguish over that which occurs in nature. Accordingly, Applicants have amended Claims 1 and 2 to add the term "isolated." Applicants wish to thank the Examiner for this kind suggestion.

Finally, the Examiner has indicated that Claims 5-12 have been withdrawn in the present Office Action (Claims 1 and 3 were previously withdrawn, but are still pending).

Applicants remind the Examiner that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim *will* be rejoined. (*emphasis added*)

Upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder, and allowance, of the withdrawn process claims (Claims 11 and 12).

Further, Applicants note that Claims 5-10 depend from Claim 4 and, therefore, relate to share the same point of novelty (a DNA molecule that encodes for a peptide having the amino acid sequence of SEQ ID NO:4). Accordingly, Applicants request rejoinder and allowance of Claims 5-10 concomitant with allowance of Claim 4.

Applicants submit that the present application is in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Vincent K. Shier, Ph.D.
Registration No. 50,552

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)
NFO/VKS